

422.35 Net income of corporation how computed.

The term "*net income*" means the taxable income before the net operating loss deduction, as properly computed for federal income tax purposes under the Internal Revenue Code, with the following adjustments:

1. Subtract interest and dividends from federal securities.
2. Add interest and dividends from foreign securities, from securities of state and other political subdivisions, and from regulated investment companies exempt from federal income tax under the Internal Revenue Code.
3. Where the net income includes capital gains or losses, or gains or losses from property other than capital assets, and such gains or losses have been determined by using a basis established prior to January 1, 1934, an adjustment may be made, under rules and regulations prescribed by the director, to reflect the difference resulting from the use of a basis of cost or January 1, 1934, fair market value, less depreciation allowed or allowable, whichever is higher. Provided that the basis shall be fair market value as of January 1, 1955, less depreciation allowed or allowable, in the case of property acquired prior to that date if use of a prior basis is declared to be invalid.
4. Subtract fifty percent of the federal income taxes paid or accrued, as the case may be, during the tax year, adjusted by any federal income tax refunds; and add the Iowa income tax deducted in computing said taxable income.
5. Subtract the amount of the work opportunity tax credit allowable for the tax year under section 51 of the Internal Revenue Code to the extent that the credit increased federal taxable income.
6. If the taxpayer is a small business corporation, subtract an amount equal to sixty-five percent of the wages paid to individuals, but not to exceed twenty thousand dollars per individual, named in paragraphs "*a*", "*b*", and "*c*" who were hired for the first time by the taxpayer during the tax year for work done in this state:
 - a.* An individual with a disability domiciled in this state at the time of the hiring who meets any of the following conditions:
 - (1) Has a physical or mental impairment which substantially limits one or more major life activities.
 - (2) Has a record of that impairment.
 - (3) Is regarded as having that impairment.
 - b.* An individual domiciled in this state at the time of the hiring who meets any of the following conditions:
 - (1) Has been convicted of a felony in this or any other state or the District of Columbia.
 - (2) Is on parole pursuant to chapter 906.
 - (3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.
 - (4) Is in a work release program pursuant to chapter 904, division IX.
 - c.* An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 907A.1, Code 2001, applies, or to whom the interstate compact for adult offender supervision under chapter 907B applies.

This deduction is allowed for the wages paid to the individuals successfully completing a probationary period

named in paragraphs "a", "b", and "c" during the twelve months following the date of first employment by the taxpayer and shall be deducted in the tax years when paid.

For purposes of this subsection, "*physical or mental impairment*" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

For purposes of this subsection, "*small business*" means a profit or nonprofit business, including but not limited to an individual, partnership, corporation, joint venture, association, or cooperative, to which the following apply:

- (1) It is not an affiliate or subsidiary of a business dominant in its field of operation.
- (2) It has either twenty or fewer full-time equivalent positions or not more than the equivalent of three million dollars in annual gross revenues as computed for the preceding fiscal year or as the average of the three preceding fiscal years.
- (3) It does not include the practice of a profession.

"*Small business*" includes an employee-owned business which has been an employee-owned business for less than three years or which meets the conditions of subparagraphs (1) through (3).

For purposes of this definition, "*dominant in its field of operation*" means having more than twenty full-time equivalent positions and more than three million dollars in annual gross revenues, and "*affiliate or subsidiary of a business dominant in its field of operation*" means a business which is at least twenty percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalents, of a business dominant in that field of operation.

The department may, by resolution, waive any or all of the requirements of paragraph "b"* in connection with a loan to a small business, as defined under applicable federal law and regulations that have been enacted or adopted by April 1, 1983, in which federal assistance, insurance, or guaranties are sought.

6A. If the taxpayer is a business corporation and does not qualify for the adjustment under subsection 6, subtract an amount equal to sixty-five percent of the wages paid to individuals, but shall not exceed twenty thousand dollars per individual, named in paragraphs "a" and "b" who were hired for the first time by the taxpayer during the tax year for work done in this state:

a. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

- (1) Has been convicted of a felony in this or any other state or the District of Columbia.
- (2) Is on parole pursuant to chapter 906.
- (3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.
- (4) Is in a work release program pursuant to chapter 904, division IX.

b. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 907A.1, Code 2001, applies, or to whom the interstate compact for adult offender supervision under chapter 907B applies.

This deduction is allowed for the wages paid to the individuals successfully completing a probationary period

named in paragraphs "a" and "b" during the twelve months following the date of first employment by the taxpayer and shall be deducted in the tax years when paid.

The department shall develop and distribute information concerning the deduction available for businesses employing persons named in paragraphs "a" and "b".

7. Subtract the amount of the alcohol fuel credit allowable for the tax year under section 40 of the Internal Revenue Code to the extent that the credit increased federal taxable income.

8. Add the amounts deducted and subtract the amounts included in income as a result of the treatment provided sale-leaseback agreements under section 168(f)(8) of the Internal Revenue Code for property placed in service by the transferee prior to January 1, 1986, to the extent that the amounts deducted and the amounts included in income are not otherwise deductible or included in income under the other provisions of the Internal Revenue Code as amended to and including December 31, 1985. Entitlement to depreciation on any property involved in a sale-leaseback agreement which is placed in service by the transferee prior to January 1, 1986, shall be determined under the Internal Revenue Code as amended to and including December 31, 1985, excluding section 168(f)(8) in making the determination.

9. Reserved.

10. Add the percentage depletion amount determined with respect to an oil, gas, or geothermal well using methods in section 613 of the Internal Revenue Code that is in excess of the cost depletion amount determined under section 611 of the Internal Revenue Code.

11. If after applying all of the adjustments provided for in this section and the allocation and apportionment provisions of section 422.33, the Iowa taxable income results in a net operating loss, such net operating loss shall be deducted as follows:

a. The Iowa net operating loss shall be carried back three taxable years for a net operating loss incurred in a presidentially declared disaster area by a taxpayer engaged in a small business or in the trade or business of farming. For all other Iowa net operating losses, the net operating loss shall be carried back two taxable years or to the taxable year in which the corporation first commenced doing business in this state, whichever is later.

b. The Iowa net operating loss remaining after being carried back as required in paragraph "a" or "f" or if not required to be carried back shall be carried forward twenty taxable years.

c. If the election under section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward twenty taxable years.

d. No portion of a net operating loss which was sustained from that portion of the trade or business carried on outside the state of Iowa shall be deducted.

e. The limitations on net operating loss carryback and carryforward under sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code shall apply.

f. Notwithstanding paragraph "a", for a taxpayer who is engaged in the trade or business of farming as defined in section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in section 172(b)(1)(F) of the Internal Revenue Code including modifications prescribed by rule by the director, the Iowa loss from the trade or business of farming is a net operating loss which may be carried back five taxable years prior to the taxable year of the loss.

Provided, however, that a corporation affected by the allocation provisions of section 422.33 shall be

permitted to deduct only such portion of the deductions for net operating loss and federal income taxes as is fairly and equitably allocable to Iowa, under rules prescribed by the director.

12. Subtract the loss on the sale or exchange of a share of a regulated investment company held for six months or less to the extent the loss was disallowed under section 852(b)(4)(B) of the Internal Revenue Code.

13. Subtract the interest earned from bonds and notes issued by the agricultural development authority as provided in section 175.17, subsection 10.

14. Reserved.

15. Reserved.

16. Add depreciation taken for federal income tax purposes on a speculative shell building defined in section 427.1, subsection 27, which is owned by a for-profit entity and the for-profit entity is receiving the proper tax exemption. Subtract depreciation computed as if the speculative shell building were classified as fifteen-year property during the period during which it is owned by the taxpayer and is receiving the property tax exemption. However, this subsection does not apply to a speculative shell building which is used by the taxpayer, subsidiary of the taxpayer, or majority owners of the taxpayer, for other than as a speculative shell building, as defined in section 427.1, subsection 27.

17. Subtract the amount of the employer social security credit allowable for the tax year under section 45B of the Internal Revenue Code to the extent that the credit increases federal taxable income.

18. Add, to the extent not already included, income from the sale of obligations of the state and its political subdivisions. Income from the sale of these obligations is exempt from the taxes imposed by this division only if the law authorizing these obligations specifically exempts the income from the sale from the state corporate income tax.

19. *a.* The additional first-year depreciation allowance authorized in section 168(k) of the Internal Revenue Code, as enacted by Pub. L. No. 107-147, section 101, does not apply in computing net income for state tax purposes. If the taxpayer has taken such deduction in computing taxable income, the following adjustments shall be made:

(1) Add the total amount of depreciation taken on all property for which the election under section 168(k) of the Internal Revenue Code was made for the tax year.

(2) Subtract an amount equal to depreciation allowed on such property for the tax year using the modified accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k).

(3) Any other adjustments to gains or losses to reflect the adjustments made in subparagraphs (1) and (2) pursuant to rules adopted by the director.

b. A taxpayer may elect to apply the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code, as enacted by Pub. L. No. 108-27, in computing net income for state tax purposes, for qualified property acquired after May 5, 2003, and before January 1, 2005. If the taxpayer elects to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the deduction may be taken on amended state tax returns, if necessary. If the taxpayer does not elect to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the following adjustment shall be made:

(1) Add the total amount of depreciation taken on all property for which the election under section 168(k)(4)

of the Internal Revenue Code was made for the tax year.

(2) Subtract an amount equal to depreciation allowed on such property for the tax year using the modified accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k)(4).

(3) Any other adjustments to gains or losses to reflect the adjustments made in subparagraphs (1) and (2) pursuant to rules adopted by the director.

20. A taxpayer may elect not to take the increased expensing allowance under section 179 of the Internal Revenue Code, as amended by Pub. L. No. 108-27, section 202, in computing state tax purposes. If the taxpayer does not take the increased expensing allowance under section 179 of the Internal Revenue Code for state tax purposes, the following adjustments shall be made:

a. Add the total amount of expense deduction taken on section 179 property for federal tax purposes under section 179 of the Internal Revenue Code.

b. Subtract the amount of expense deduction on section 179 property allowable for federal tax purposes under section 179 of the Internal Revenue Code prior to enactment of Pub. L. No. 108-27, section 202.

c. Any other adjustments to gains and losses to the adjustments made in paragraphs "a" and "b" pursuant to rules adopted by the director.

21. Subtract the amount of foreign dividend income, including subpart F income as defined in section 952 of the Internal Revenue Code, based upon the percentage of ownership as set forth in section 243 of the Internal Revenue Code.

22. Subtract, to the extent included, the amount of ordinary or capital gain realized by the taxpayer as a result of the involuntary conversion of property due to eminent domain. However, if the total amount of such realized ordinary or capital gain is not recognized because the converted property is replaced with property that is similar to, or related in use to, the converted property, the amount of such realized ordinary or capital gain shall not be subtracted under this subsection until the remaining realized ordinary or capital gain is subject to federal taxation or until the time of disposition of the replacement property as provided under rules of the director. The subtraction allowed under this subsection shall not alter the basis as established for federal tax purposes of any property owned by the taxpayer.

23. Subtract, to the extent included, an amount equal to any income received from the sale, rental, or furnishing of tangible personal property or services directly related to the production of a project registered under section 15.393 which meets the criteria of a qualified expenditure under section 15.393, subsection 2, paragraph "a", subparagraph (2).

[C35, § 6943-f31; C39, § **6943.067**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.35; 81 Acts, ch 132, § 8, 9; 82 Acts, ch 1023, § 14, 15, 30, 31, ch 1203, § 2, ch 1206, § 1]

83 Acts, ch 174, § 2, 3; 83 Acts, ch 179, § 16, 24; 86 Acts, ch 1236, § 9; 86 Acts, ch 1238, § 20; 86 Acts, ch 1241, § 23; 87 Acts, 1st Ex, ch 1, § 811; 89 Acts, ch 175, § 3; 89 Acts, ch 225, § 20, 21; 90 Acts, ch 1168, § 46; 90 Acts, ch 1171, § 6; 90 Acts, ch 1195, § 2; 90 Acts, ch 1251, § 53; 91 Acts, ch 210, § 3; 92 Acts, ch 1222, § 5, 6; 92 Acts, ch 1225, § 2, 5; 94 Acts, ch 1107, §26; 94 Acts, ch 1166, §9, 10, 12; 95 Acts, ch 152, §6, 7; 96 Acts, ch 1129, § 113; 97 Acts, ch 135, §8, 9; 98 Acts, ch 1078, §8, 12; 98 Acts, ch 1172, §13, 14; 99 Acts, ch 95, § 1013; 2001 Acts, ch 15, §3, 4; 2001 Acts, ch 116, §7, 28; 2001 Acts, 2nd Ex, ch 6, §2326, 37; 2003 Acts, ch 139, §1012; 2004 Acts, ch 1101, §47; 2004 Acts, 1st Ex, ch 1001, §4042; 2005 Acts, ch 2, §3, 4, 6; 2005 Acts, ch 19, §54; 2005 Acts, ch 24, §911; 2005 Acts, ch 140, §41, 73; 2006 Acts, 1st Ex, ch 1001, §42, 49; 2007 Acts, ch 54, §36; 2007 Acts, ch 162, §8, 13; 2007 Acts, ch 186, §17

*Reference to "subparagraph (2)" probably intended; corrective legislation is pending

Subsection 19 takes effect May 21, 2003, and applies retroactively to tax years ending on or after September 10, 2001; 2003 Acts, ch 139, §11, 12

2004 amendment to subsection 19 takes effect September 7, 2004, and applies retroactively to tax years ending after May 5, 2003; 2004 Acts, 1st Ex, ch 1001, § 41, 42

2005 amendment striking subsection 15 applies retroactively to January 1, 2005, for tax years beginning on or after that date; 2005 Acts, ch 140, § 73

2005 amendments to subsection 19, paragraph b, take effect February 24, 2005, and apply retroactively to tax years ending after May 5, 2003; special filing provisions; 2005 Acts, ch 2, § 5, 6

2005 amendment adding NEW subsection 20 takes effect February 24, 2005, and applies retroactively to tax years beginning on or after January 1, 2003; special filing provisions; 2005 Acts, ch 2, § 5, 6

2005 amendment adding NEW subsection 21 takes effect April 13, 2005, and applies retroactively to tax years beginning on or after January 1, 2003; 2005 Acts, ch 24, § 10, 11

Subsection 22 applies retroactively to January 1, 2006, for tax years beginning on or after that date; 2006 Acts, 1st Ex, ch 1001, §49

Subsection 23 takes effect May 17, 2007, and applies retroactively to tax years beginning on or after January 1, 2007; 2007 Acts, ch 162, §13